

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated May 23, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-10 are pending in the Application. By means of the present amendment, the claims are amended including for better conformance to U.S. practice, such as deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Further amendments include amending dependent claims to begin with "The". The claims are also amended to clarify that which was already previously recited in the claims. By these amendments, the claims are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents. Applicants furthermore reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

Applicants thank the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority document(s).

In the Office Action, the drawings are objected to for informalities in the specification and because of lack of labels in FIG. 8. In response, the specification is amended herein and labels have been added to FIG. 8. A replacement sheet including FIG. 8 is enclosed. Applicants respectfully request approval of the enclosed proposed drawing changes and withdrawal of the drawing objections.

In the Office Action, claim 10 is rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Applicants respectfully disagree with and explicitly traverses this ground for rejecting claim 10. It is the Applicants' position that the claims require statutory subject matter. However, in the interest of furthering the prosecution of this matter, Applicants have elected to amend claim to more clearly state the invention. Specifically, Applicants have amended claim 10 to more clearly state a computer program product stored on a computer readable memory medium ... Clearly, claim 10 requires statutory subject matter. Accordingly, it is respectfully requested that the amendment to the claims be entered and that the rejection of claim 11 under 35 U.S.C. §101 be withdrawn.

Claims 1 and 9 (claim 10 is indicated in the Office Action, although the indicated feature is previously recited in claim 9) are rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite. Claims 1 and 9 are amended herein to cure the noted problems. Accordingly, it is respectfully submitted that claims 1 and 9 are in proper form and it is respectfully requested that this rejection under 35 U.S.C. §112, second paragraph, be withdrawn.

In the Office Action, claims 1-10 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 7,058,852 to Sims ("Sims") in view of U.S. Patent Publication No. 2001/0047451 to Noble ("Noble"). It is respectfully submitted that claims 1-11 are allowable over Sims in view of Noble for at least the following reasons.

It is undisputed that "Sims fails to disclose contiguous recording and for detecting if the allocated physical address range is interrupted by a subset of physical addresses assigned to a defect management area, for reallocating the subset of physical addresses to the user data area, and for contiguously recording the series of blocks extending over the subset of physical addresses." (See, Final Office Action, page 5.) Noble is cited for supplying

that which is missing from Sims, however, it is respectfully submitted that reliance on Noble is misplaced.

While Noble does show defragmentation of files and (emphasis added) "[i]f the file has privileged access, the contiguous PBAs are moved to the sectors that have faster access times such as the outer sectors of the media 50. In one aspect, to move the contiguous PBAs to the faster sectors requires that files located within the faster sectors and free PBAs be swapped until the contiguous PBAs are located in the faster sectors." (See, Noble, paragraph 43 cited in the Office Action.) In other words, if a faster access is required from a data file but the faster sectors are already occupied by another data file, the data files in the faster sectors will be moved to make room for the privileged file.

It however is respectfully submitted that the device of claim 1 is not anticipated or made obvious by the teachings of Sims in view of Noble. For example, Sims in view of Noble does not disclose or suggest, a device that amongst other patentable elements, comprises (illustrative emphasis added) "contiguous recording means ... for detecting if the allocated physical address range is interrupted by a subset of physical addresses previously assigned to a defect management area, for reallocating the subset

of physical addresses previously assigned to the defect management area, to the user data area, and for contiguously recording the series of blocks extending over the subset of physical addresses previously assigned to the defect management area" as recited in claim 1, and as similarly recited in each of claims 9 and 10. In fact Noble which is relied on for showing this feature, merely shows moving of data files to make room in a fast access area of the disk and does not disclose or suggest movement of a defect management area.

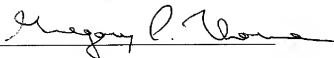
Based on the foregoing, the Applicants respectfully submit that independent claims 1, 9 and 10 are patentable over Sims in view of Noble and notice to this effect is earnestly solicited. Claims 2-8 depend from claim 1 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the

presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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Enclosure: Replacement drawing sheet (1 sheet including FIG. 8)

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